

TENNESSEE ETHICS COMMISSION

Minutes of June 27, 2007

Pursuant to the call of Chairman Thomas J. Garland, the Tennessee Ethics Commission ("Commission") met on Wednesday, June 27, 2007, at 1:00 p.m. in the auditorium of the Tennessee State Library and Archives Building in Nashville, Tennessee.

The following members were present:

Thomas J. Garland, Chair

Donald J. Hall

Linda W. Knight

Dianne F. Neal

Benjamin S. Purser, Jr.

R. Larry Brown joined the meeting at a later time.

Chairman Garland called the meeting to order at 1:15 p.m.

He began with a statement that he recommends determining the chair-elect in the September Commission meeting and that the new chair would begin October 1, 2007. He also stated that he did not want to be considered for the chair position, though he would remain on the Commission. He reiterated that he is not resigning as a member.

Chairman Garland sought approval of the May 22, 2007 meeting minutes. Commissioner Neal and Commissioner Knight proposed recommended changes. Commissioner Neal made the motion to approve the May 22, 2007 meeting minutes pending recommended changes. The motion was seconded and approved unanimously.

Chairman Garland recognized Mr. Androphy for the Executive Director's report. Mr. Androphy updated the Commission as to the current numbers of registered lobbyists, registered employers of lobbyists, lobbyist training fees and sessions, and lobbying expenditure reports. He sought authorization to send civil assessment letters to employers who have received warning letters but who have not yet filed expenditure reports, and clarification as to whether the names of delinquent filers should be posted. The Commissioners agreed to post the names of employers who were delinquent in filing the expenditure report on the Commission's website. No vote was taken on this issue.

Discussion followed. Commissioner Purser made the motion to send the civil assessment letter, and Commissioner Knight amended the motion to state that the assessment letter would, in effect, trigger the penalties to accrue and would then be assessed upon the adoption of rules. The motion was seconded. The motion was unanimously approved.

Mr. Androphy sought clarification as to whether the Commission would like the staff to conduct a final lobbyist training for those lobbyists who had not completed a session. This was authorized without objection.

Mr. Androphy raised a question of fee waivers of the ethics training session fee for non-profit organizations. A discussion followed, and it was decided that the staff would prepare an amended rule for handling fee waiver requests for the ethics training, it would be placed on the July agenda, and the Commission would then decide whether to adopt the proposed rule change upon examination.

Mr. Androphy discussed the civil assessment letters for the local filers. He stated that because the statute is much clearer on this subject, these filers who have received warning letters and civil assessment letters are ready to appear at the July meeting.

The Commission next recognized a representative from the Attorney General's Office to begin the random selection of lobbyists to be audited.

General Counsel Anne Turner was recognized to explain the selection procedure. It was noted that 2% of all registered lobbyists results in 10.7 lobbyists. Commissioner Purser made the motion to designate the number of lobbyists to be selected as 11 and Commissioner Hall seconded the motion. Chairman Garland asked for a consensus and it was unanimous.

The program generated 11 random numbers from an alphabetical list of registered lobbyists.

The lobbyists selected for the random 2007 audit were:

216	Walter Haynes
458	Judy Takats
160	Doug Fluegal
280	James Kvedaras
191	Mark Greene
420	Ralph Schulz
214	Johnny Hayes
427	Janice Shelby
27	Robert Baldrige
210	Marcus Hash
391	Kathy Reid

Mr. Androphy announced the intent to send a registered letter to each of these lobbyists requesting that they contact the Commission office to schedule an audit.

Mr. Androphy finalized the Executive Director's Report with updates on electronic filing, the current lease situation of the Commission office, the COGEL conference, the departure of Mindy Arrington from the Commission staff, the next Commission meeting date of July 31, 2007, and the statutory obligation to collect and file local governments' codes of ethics.

Commissioner Knight requested statutory citations on the various items of the Executive Director's Report. She also wanted a report detailing financial intake of the Commission, the State appropriation, the fees collected, and the amount of money spent. Mr. Androphy stated that the Secretary of State's office is preparing this information as the fiscal year closes on June 30th and he anticipates making a report to the Commission at the July meeting. Commissioner Knight then asked that mandatory requirements, such as lobbyist training, be placed in a more noticeable way on the face of the website.

The Commission next considered Commissioner Knight's request to address the Guiding Principles. Two separate issues were raised in this discussion. The first being the procedural issue of whether the 72 hour window previously decided upon by the Commission was left open for stylistic changes only, or for both stylistic and substantive changes. The second issue to be considered was Commissioner Knight's request to mention politics within the Guidelines.

Chairman Garland stated that the first issue on the floor for a vote was the issue of obtaining four votes to serve as a majority in the future of determining whether a change was stylistic or substantive.

Commissioner Hall was then asked to restate the procedure for proposing substantive changes to a previously adopted document. The procedure is as follows: When the Commission has voted on a matter, and the matter is reduced to a document, the document will be circulated for 72 hours (subject to weekends, holidays, etc.). Commissioners are invited to make stylistic changes, not changes of substance. In the event that the Executive Director has reason to believe that a proposed change is not stylistic, but is in fact substantive, the Chair will be consulted, and the essence of the discussion will be reported back to the Commission. If it is considered to be a substantive change, the proposed substantive change can be presented to the Commission at the next meeting, but the maker of that motion is obligated to move to reconsider a matter previously decided by the Commission. Four votes are required to obtain a majority. Commissioner Hall made the motion to adopt these procedures. The motion was seconded. Motion passed unanimously.

The Commission next discussed the second issue. It was decided that the changes were substantive and were not made. Only one stylistic change was made.

The Guiding Principles were adopted.

The Commission discussed draft Advisory Opinion 07-02. After discussion, the Commission agreed that the draft was an incorrect interpretation of the statute. The Commission requested that the staff revise the opinion to reflect the discussion and conclusion of the Commissioners.

The Commission next discussed the public records request memorandum from the Attorney General. Commissioner Neal proposed that the Commission's General Counsel issue a memorandum summarizing the Memorandum from the Attorney General. Commissioner Knight requested that the Attorney General's Office be contacted to see what effect, if any, the Schneider case would have on the findings in the memorandum. After discussion, there was consensus to obtain further legal counsel from both the Commission's General Counsel and the

Attorney General's Office, and then address the issue of releasing certain documents at the next meeting.

Chairman Garland acknowledged Alan Ramsaur who addressed the Commission. Mr. Ramsaur contended that there was no privilege attached to the requested documents and that there is no threatened or contemplated litigation over his request.

The adjudicatory proceeding rules were moved to the June 28th meeting.

The meeting was adjourned at 6:15 p.m. The Commission is scheduled to meet June 28, 2007 at 9 a.m. in the auditorium of the Library & Archives.

Respectfully submitted,

Rebecca Bradley